

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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RICKY KAMDEN-OUAFFO,

Plaintiff,

v.

ORDER

BALCHEM CORPORATION, et al,

19-CV-9943 (PMH)

Defendants.

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PHILIP M. HALPERN, United States District Judge:

Plaintiff Ricky Kamden-Ouaffo (“Plaintiff”), proceeding *pro se*, initiated this action (“Action II”) on October 25, 2019 pressing claims against Balchem Corporation (“Balchem”) and seven former or current executives or employees of Balchem (“Defendants”). (Doc. 2, “Compl.”). Plaintiff presses employment discrimination claims under Title VII of the Civil Rights Act of 1964 and New York State Human Rights Law as well as a “tortuous [sic] interferences [sic]” claim. (*Id.* at 3-4).

At the time Plaintiff commenced Action II, another action entitled *Kamden-Ouaffo v. Balchem Corporation*, No. 17-CV-2810 (“Action I”), asserted by the same Plaintiff against the same Defendants, was already pending in this Court.¹ Action I was dismissed with prejudice on March 23, 2021 after the Court adopted Chief Magistrate Judge Davison’s Report and Recommendation in its entirety which recommended that Plaintiff’s action be dismissed based on his discovery misconduct related to his failure to appear for a court-ordered deposition (the “R&R Order”). (Action I Docs. 225, 244). The same day that the R&R Order was issued, Plaintiff filed a Notice of Appeal. (Action I Doc. 245).

¹ When citing to documents filed on the docket in Action I, the Court will cite to “Action I Doc. __.” When citing to documents filed in Action II, the Court will cite to “Doc. __.”

Prior to the issuance of the R&R Order, Defendants moved to dismiss Plaintiff's Complaint in Action II pursuant to Federal Rule of Civil Procedure 12(b)(6) and the rule against duplicative litigation. (Docs. 26, 27). Plaintiff also filed a motion to convert Defendants' motion to dismiss into one for summary judgment under Federal Rule of Civil Procedure 56. (Doc. 35).

In light of the dismissal of Action I and Plaintiff's subsequent appeal of the R&R Order to the Second Circuit, the Court denies the pending motions in Action II without prejudice to renewal after the appeal in Action I has been resolved by the Second Circuit. Furthermore, Action II is stayed pending the resolution of Action I. The parties are directed to notify the Court promptly after a decision is issued by the Second Circuit in Action I. Nothing shall be filed on the docket in Action II in the interim.

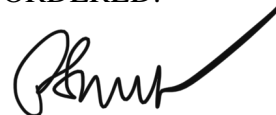
CONCLUSION

All proceedings in this case are STAYED pending resolution of Plaintiff's appeal in *Kamden-Ouaffo v. Balchem Corporation*, No. 17-CV-2810. The parties are directed to notify the Court promptly after a decision is issued by the Second Circuit in Action I. Nothing shall be filed on the docket in this action in the interim.

Defendants' motion to dismiss and Plaintiff's motion to convert the motion to dismiss into a motion for summary judgment are DENIED without prejudice to renewal. The Clerk is instructed to terminate ECF Nos. 26 and 35 and to mail a copy of this Order to Plaintiff at the address provided on the docket.

Dated: White Plains, New York
March 30, 2021

SO ORDERED.

A handwritten signature in black ink, appearing to read 'Philip M. Halpern', written over a horizontal line.

Philip M. Halpern
United States District Judge